

REMARKS

Claims 1, 9, 11-14, and 16-20 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Asao et al. (U.S. 6,809,717) in view of Nakao et al. (U.S. 2004/0041766). Applicants have cancelled claim 3 without prejudice, and incorporated its subject matter into independent claim 1. Applicants submit that this rejection has been overcome for at least these reasons, because claim 3 was not part of this rejection by the Examiner. The remaining rejected claims all depend directly or indirectly from independent claim 1, and therefore the rejection of these dependent claims should be overcome for at least the same reasons.

Claims 3, 5, and 7 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Asao in view of Nakao, and further in view of Hagiwara et al. (U.S. 5,130,050). As discussed above, Applicants have incorporated the subject matter of claim 3 into independent claim 1, and therefore traverse this rejection as it pertains to amended claim 1. Applicants therefore traverse the rejection because none of the cited references, whether taken alone or in combination, teach or suggest the data writing time features of amended claim 1 of the present invention, which features were originally recited in dependent claim 3.

The Examiner correctly acknowledges, on page 3 of the outstanding Office Action, that the combination of Asao and Nakao do not teach the data writing time features of the present invention (original claim 3). The Examiner relies only upon Hagiwara for teaching such features, and specifically cites col. 1, lines 4-32 of the reference for support.

This cited portion of Hagiwara, however, fails to teach or suggest anything related to the data writing time of the present invention.

In fact, the portion of Hagiwara cited by the Examiner does not even discuss data writing time. All portions in the cited reference related to timing only refer to *response speeds* of the liquid crystal, and not the data writing on the liquid crystal cell. Response speed is not equivalent to the data writing time, and therefore a *prima facie* of obviousness has not been established against the present invention. Section 2143.03 of the MPEP requires the Examiner, in attempting to establish a *prima facie* case of obviousness, to cite to where in the prior art is taught each and every feature and limitation of the present invention. Because this requirement has not been met with respect to at least these features, the obviousness rejection, as now applied to independent claim 1, is deficient and should be withdrawn.

The obviousness rejection with respect to dependent claims 5 and 7 is even further deficient. Claims 5 and 7 recite that the data writing time on the liquid crystal cell through the switching element is not more than 10 μ s and 5 μ s respectively. As discussed above, the cited portions of Hagiwara do not address the data writing time, and more particularly, the data writing time on the liquid crystal cell through the switching element. Again, the cited portions mention only response speeds of the liquid crystal molecules, in response to electric fields, and not data writing on the cells, through the switching elements. Accordingly, the rejection of dependent claims 5 and 7 is deficient for at least these

additional reasons, as well as for the reason that claims 5 and 7 depend from independent claim 1.

Additionally, Applicants further traverse the rejection because the Examiner has not provided sufficient justification for how the different respective technologies of the Asao and Nakao references can be combined. Nakao describes an OCB device, which utilizes a capacitive coupling drive of a display mode using a nematic liquid crystal having the specified storage capacity. Nakao is therefore different from the liquid crystal material and driving method of the present invention that utilize a liquid crystal having spontaneous polarization. Those skilled in the art should be well apprised that Nakao and Asao, for example, relate to different technologies, which cannot be easily combined based on the Examiner's personal opinion only. The teaching or suggestion for the proposed combination must come from *within the references themselves*, as should the explanation for how differing technologies may be combined. See In re Lee, 277 F.3d 1338, 61 U.S.P.Q.2d 1430 (Fed. Cir. 2002). Because the Examiner has not cited to anywhere within the prior art that justifies the proposed combination, the Section 103 rejection is further traversed for at least these additional reasons.

Lastly, the Section 103 rejection should be withdrawn because the Examiner has provided no justification for combining Hagiwara with the above combination of Asao and Nakao. On page 4 of the outstanding Office Action, the Examiner merely asserts that Hagiwara may be incorporated "in the system of Kurematsu," and then only "in order to

achieve stabilized for display (sic).” Applicants point out to the Examiner that he has withdrawn the previous rejection that was based in part on the Kurematsu reference, and also that Kurematsu has not been cited as part of this proposed combination by the Examiner either. Moreover, as discussed above, the motivation for the proposed combination of any grouping of references must come from the references themselves, and may not be based solely on the Examiner’s own conclusory statements. See id.

The Examiner has cited to no teaching or suggestion within any of the three cited references for how the specific portions of Hagiwara may be combined with both Asao and Nakao. Merely asserting that the proposed combination of Hagiwara with another reference will “achieve stabilized for display” provides no motivation to one skilled in the art how or why to make the combination in the first place. The Examiner has not cited to anywhere within the prior art that even teaches or suggests that the proposed combination will achieve a more stabilized display. Because the Examiner’s rationale is only a justification after the fact, the proposed combination demonstrates impermissible hindsight, and therefore the outstanding Section 103 rejection should be withdrawn for at least these additional reasons.

Applicants respectfully emphasize to the Examiner that the only amendment made to the claims herein is the incorporation of the subject matter of an existing dependent claim (3) into the single independent claim. Therefore, no new matter has been added by this amendment, nor have any new issues been raised requiring any further search or

consideration by the Examiner. Accordingly, Applicants submit that this amendment to expedite prosecution is essentially formal in nature, and thus also both appropriate and necessary for entry after final rejection.

For all of the foregoing reasons, Applicants submit that this Application, including claims 1, 5, 7, 9, 11-14, and 16-20, is in condition for allowance, which is respectfully requested. The Examiner is invited to contact the undersigned attorney if an interview would expedite prosecution.

Respectfully submitted,

GREER, BURNS & CRAIN, LTD.

By



Josh C. Snider

Registration No. 47,954

Customer No. 24978

April 11, 2005

300 South Wacker Drive
Suite 2500
Chicago, Illinois 60606
Telephone: (312) 360-0080
Facsimile: (312) 360-9315
P:\DOCS\1100166111903596.DOC